

**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED**

**By The
85th General Assembly
First Regular Session**

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**Prepared By
Office of State Courts Administrator
July 1989**

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INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

The bills are arranged by subject matter; both a table of contents listing the bills by number, and an index, are provided at the front of the report.

Except for the bills marked "vetoed", all bills included in this summary have been signed by the Governor. Signed bills become effective August 28, 1989, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

The bills summarized in the Addendum were passed during the First Extraordinary Session. The Governor has until August 26 to sign them. As this publication was sent to press, they had not been signed.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

Adoption

HB 51 ADOPTION REVISIONS

Repeals sections 453.070, 453.075 and 453.110, RSMo 1986, relating to adoptions, and enacts in lieu thereof five new sections relating to the same subject, with penalty provisions.

Sets forth the parties which are authorized to place a minor for adoption. Before a juvenile court is authorized to issue an adoption order, an investigative report must be completed within 90 days of the request.

Upon the filing of a petition for adoption, the court must require a full affidavit accounting of any valuable consideration transferred in connection with an adoption or placement.

Juvenile courts must order an investigation by the Division of Family Services when any person or agency has transferred custody of a child to another without juvenile court approval. The investigation shall be initiated within 48 hours of when the order was filed, and completed within 30 days.

Child Custody/Child Support

SS SB 311 WORKERS' COMPENSATION

Repeals sections 208.215, 287.120, 287.144, 287.150, 287.160, 287.180, 287.190, 287.197, 287.200, 287.210, 287.240, 287.260, 287.300, 287.320, 287.390, 287.560, and 454.517, RSMo 1986 and sections 287.140, 287.170, 287.266, 287.610, and 287.615, RSMo Supp. 1988 relating to workers' compensation and enacts in lieu thereof twenty-five new sections relating to the same subject, with an effective date for a certain section.

This is a comprehensive bill relating to workers' compensation. As it pertains to child support, the bill clarifies the law relating to liens placed on workers' compensation benefits for unpaid and delinquent child or spousal support. Such liens cannot be placed on compensation benefits provided for certain medical expenses and therapy.

Lien notices filed with the Division of Worker's Compensation must contain the name of the person to whom the obligation is owed, unless the child or spousal support has been assigned to the state as a condition of obtaining AFDC benefits.

SCS HB 422 PARENTS' RIGHTS

Repeals sections 452.375 and 452.400, RSMo Supp. 1988, relating to custody and records of certain children, and enacts in lieu thereof three new sections relating to the same subject.

Requires school districts to give a child's school records to a noncustodial parent or any parent who has joint custody unless visitation rights have been denied by court order. The court may order any individual or institution that fails to comply, or parent who refuses to exchange information with the other parent, to comply immediately and pay any costs the other party incurred in obtaining the requested information.

The bill also allows the court to order compensatory periods of visitation or temporary custody to a parent who has been unjustly denied visitation. A noncustodial parent denied such rights may be given reasonable expenses incurred as a result of the denial of such visitation. The court is required to define visitation periods in detail at the request of either party or upon a finding of noncompliance of the visitation order.

Circuit Clerks

SS SCS SB 315 CIRCUIT CLERKS' SALARY INCREASE

Repeals sections 483.088, RSMo 1986, and section 483.083, RSMo Supp. 1988, relating to circuit clerks, and enacts in lieu thereof two new sections relating to the same subject, with an emergency clause. This bill was signed on May 25, 1989.

This bill contains a provision allowing cost-of-living adjustments on the \$5,000 sheriffs' retirement duty in 483.088, with an emergency clause.

(An error in the bill reduces the reimbursement to Jackson County.)

CCS #2 SS HCS HB 674 CIRCUIT CLERKS' RETIREMENT

Repeals sections 57.967 and 104.345, RSMo 1986, and sections 57.973, 104.040, 104.340, 104.370, 104.374, 104.401, 104.420, 104.460, 104.470, 104.516, 104.612, 105.670, 476.515, 476.524, and 476.539, RSMo Supp. 1988, relating to certain retirement systems, and enacts in lieu thereof twenty-six new sections relating to the same subject, with an emergency clause and effective date for certain sections. Signed on June 14, 1989.

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Provides that circuit clerks are entitled to credit for prior services with any county or other political subdivision as long as such service has not been included for purposes of qualification for any other retirement system. Language is included that is intended to allow prior service credit for deputy and division clerks who may not have received credit at the time of conversion. Certain deputy and division clerks who contributed accumulated LAGERS benefits to MOSERS are eligible to receive a refund.

The timetable for judges to elect to purchase creditable prior service in the armed forces is changed. Surviving spouses of judges who had served at least eleven years as a judge prior to their death, and who were married for at least ten years prior to the judge's death, may be employed as special consultants and receive one-half of the judge's retirement compensation.

Juvenile commissioners may transfer MOSERS service to service as a judge and qualify for judicial retirement.

Probate commissioners from St. Louis City may be appointed special consultants to MOSERS.

Civil

SS HCS HB 143 RECOVERY OF COSTS IN PROCEEDINGS INVOLVING THE STATE

Repeals sections 536.021, 536.031, 536.073, 536.200 and 621.050, RSMo 1986, relating to certain administrative procedures, and enacts in lieu thereof ten new sections relating to the same subject.

Provides that certain parties who prevail in a civil action or agency proceeding brought by or against the state are awarded reasonable fees and expenses unless the court or agency finds that the position of the state was "substantially justified." Certain proceedings are excepted from these provisions, including those pertaining to child custody, entitlement, eminent domain, certain taxes, driver's license proceedings and vehicle registration proceedings.

SS HB 602 LANDLORD/TENANT

This legislation deals with requirements for owners of rental property. Renters must either be notified of the name and address of the property owner, or the owner must provide them with the name of a representative authorized to accept service of civil process in lieu of the owner. It also restricts local ordinance authority regarding rent control.

Courts

SB 439 JUDICIAL SYSTEM

The legislation establishes goals for cooperation between the legislative and judicial branches; creates a "judicial resources commission"; increases reporting requirements, especially at the trial court level; and encourages the use of senior judges.

The bill provides that, in addition to any other report required by law or court rule, or in conjunction with such report, each presiding judge of a judicial circuit and the chief judge of each district of the Court of Appeals shall file an annual report by September first of each year or such other date as directed by the Supreme Court. The report shall be in the form prescribed by the State Courts Administrator and shall provide statistical information, where applicable, on the performance of the reporting court and each judge of the reporting court in relation to caseload handled by the court during the period between reports, the rate of disposition of cases, the average duration of cases until final disposition, the number of cases requiring trial, the number of cases disposed of by settlement, the average time between filing of a case and final disposition and the average projected time between filing of a case and final disposition. Such statistical information shall be particularized according to type of case, including but not limited to personal injury, contract, domestic relations, equity, juvenile, felonies and misdemeanors. The report made by the presiding judge of each circuit shall also include the number and type of circuit division cases handled by associate circuit judges and the number and type of such cases handled by senior judges, if any, assigned to the circuit. Each report shall also include an analysis by the reporting judge on the success of the court in handling its caseload, procedures adopted by the court to handle caseload, projected ability of the court under existing conditions to handle projected future caseload, any needs of the court for additional judges, additional court personnel, space facilities, and equipment and necessary or desired changes in court rules or procedures or in state law. In connection with any recommendation for additional judges, the report shall specify in detail the conditions requiring additional judges and whether the needs of the court could be satisfied by the appointment of senior judges as provided in section 2 of this act, or by assignment of judges from other circuits, how many such judges would be required, for what periods of time, and the type of cases to be handled.

The judicial resources commission shall have full access to the reports filed pursuant to this act, examine and prepare a digest

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of such reports, conduct a comprehensive study of the state's judicial system, assess the needs, priorities, work load, case management and general performance of the court system and of the judges thereof. The commission shall make an annual report to the Supreme Court and the General Assembly before the convening of each session of the General Assembly in which they shall detail the true state of the judicial system in this state, its success or inability to handle the caseload, and the efficiency of disposition of judicial business and the administration of justice. The report shall detail the utilization of judges transferred between circuits and of senior judges as provided in section 2 of this act, including an appraisal of the effect that the appointment of senior judges and transfer of judges has on the efficiency of the courts and the reduction of caseloads. The report shall include a detailed breakdown of the needs of specific courts and the commission's recommendations.

HB 258 CHANGE OF VENUE COSTS

Repeals section 550.120, RSMo 1986, relating to certain costs in criminal prosecutions, and enacts in lieu thereof one new section relating to the same subject.

Clarifies that, in the case of a change of venue, the county where charges were originally brought is responsible for costs related to jailing the defendant, jury selection, and such other costs as are specified by statute or determined to be necessary by the trial judge.

HB 792 COURT REGISTRY ACCOUNTS

Repeals section 483.310, RSMo Supp. 1988, relating to certain circuit court funds, and enacts in lieu thereof one new section relating to the same subject.

Amends provisions regarding the use by circuit courts of income derived from bank accounts containing funds paid into the circuit court registry. Such interest income may be used for any expenditures of the circuit clerk's office and some expenditures of the court itself. The bill prohibits charter counties with court administrators or appointed circuit clerks from using the funds for travel or entertainment.

Court Workload

SB 196 INCREASED SHERIFFS' FEES

Repeals sections 57.280, 57.290, 221.020 and 571.090, RSMo 1986, relating to sheriffs and enacts in lieu thereof five new sections relating to the same subject, with penalty provisions and with an emergency clause. This bill was signed on May 25, 1989.

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This legislation increases the fees which sheriffs levy for their services. (Clerks are being encouraged to increase the amount of deposit they collect to cover anticipated costs.)

CCS SB 420 ADULT ABUSE

Repeals sections 455.010, 455.020, 455.025, 455.030, 455.040, 455.050, 455.060, 455.080, and 455.085, RSMo 1986, and section 455.516, RSMo Supp. 1988, relating to domestic violence, and enacts in lieu thereof twelve new sections relating to the same subject, with penalty provisions.

The proposed legislation makes numerous changes in the laws on adult abuse actions including: (1) shift the timing of the collection of the filing fee and costs to the conclusion of the case; (2) reduce judicial discretion in whether or not to issue an order of protection; (3) allow for a second 180 day renewal of the original full order of protection; (4) give service of protection orders priority over non-emergency service of process; (5) require clerks to give a copy of the order to a law enforcement agency for entry into MULES; (6) restrict mutual orders of protection; (7) require law enforcement to arrange transportation of abused parties to medical facilities or shelters; (8) expand law enforcements' arrest powers; (9) apply the same procedures used to protect constitutional rights to respondent (presumably including right to state-paid counsel, if indigent); (10) expand, by definition, who may petition for an order of protection; and (11) create new misdemeanor and felony offenses for violation of orders.

Crime and Punishment

CCS HS SB 135 WATERCRAFT REGULATIONS

Repeals sections 36.030, 306.010, 306.100, 306.124, 306.126, 306.130, 306.140, 306.161, 306.163, 306.165, 306.170, 306.180, 306.217, 306.280, 577.090, and 650.055, RSMo 1986, and section 104.010, RSMo Supp. 1988, relating to water and watercraft regulations, and enacts in lieu thereof twenty-three new sections relating to the same subject, with penalty provisions and an emergency clause. This bill was signed on May 25, 1989.

This legislation deals with boating safety and regulation. Among the provisions are: 1) regulation of parasailing and personal watercraft; 2) standards of care for boat operation; 3) expansion of the jurisdiction of the "water patrol"; 4) require persons under seven to wear life jackets; 5) regulations involving emergency watercraft; and 6) numerous technical provisions.

CCS HCS SCS SB's 215 & 58 OMNIBUS DRUG BILL

Repeals sections 43.506, 195.010, 195.015, 195.016, 195.020, 195.030, 195.050, 195.060, 195.100, 195.130, 195.170, 195.180, 195.190, 195.195, 195.210, 195.230, 195.250, 195.260, 195.270, 195.290, 217.765, 542.276, 542.291, 565.032, 569.025, 569.035, 610.120, 631.005, 631.120, 631.165, and 631.175, RSMo 1986, and sections 195.017, 195.040, 195.080, 195.160, 195.198, 195.200, 195.240, 532.610, 532.620, and 558.019, RSMo Supp. 1988, relating to crimes and punishment, and enacts in lieu thereof seventy-four new sections relating to the same subject, with penalty provisions, and an effective date for certain sections.

This bill codifies and expands criminal provisions dealing with controlled substances. It establishes new offenses, increases penalties and contains provisions regarding application of the death penalty to drug-related crimes.

Specific crimes are defined in the bill along with classifications for sentencing, as follows:

- (1) Possession of controlled substances;
 - (2) Fraudulently attempting to obtain a controlled substance;
 - (3) Distribution, delivery, manufacture or production of a controlled substance, or possession, with intent to do any of these;
 - (4) Unlawful distribution to minors;
 - (5) Unlawful purchase or transport of a controlled substance with a minor;
 - (6) Distribution near schools;
 - (7) Possession, purchase, or importing heroin, heroin with cocaine base, coca leaves, LSD, PCP, & marijuana (trafficking);
 - (8) Use or possession with intent to use drug paraphernalia;
 - (9) Possession or delivery of imitation controlled substances for use as controlled substances;
 - (10) Advertisement of imitation controlled substances or drug paraphernalia;
 - (11) Maintaining vehicles or structures used for possessing or transporting controlled substances (public nuisances);
 - (12) Delivery of controlled substances with cause to believe illegal use; and
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- (13) Manufacture or delivery of controlled substances in containers labeled with a false trademark.

Sentencing provisions are set out for prior and persistent drug offenders.

Provisions are made for administrative inspections of persons registered to manufacture or deliver controlled substances. The possible extent of inspections is set out.

Aggravating circumstances relating to drug violations are added which will allow the death penalty to be given to first degree murderers in drug-related cases.

The bill contains new provisions relating to precursors and registration of those who manufacture, sell, distribute or transfer those chemicals.

The bill also contains provisions regarding search warrants and communication with county prosecutors regarding such warrants and regarding any property taken pursuant to the warrants.

There are sales tax provisions for the counties of Greene and Jackson, allowing those counties to adopt a sales tax, upon election by a majority of voters in the counties, the revenues of which will be used to investigate and prosecute drug-related crimes.

The offenses of assault of a law enforcement officer, tampering with judicial officers and ticket scalping are created.

There are provisions regarding criminal records and their use in statistical research without revealing the identity of offenders.

The bill has an effective date of July 1, 1990, for those provisions relating to regulation of precursors by the Department of Health.

HCS HB's 128, 79 & 166 MISSOURI REGIMENTED DISCIPLINE PROGRAM

Repeals sections 163.191 and 217.690, RSMo Supp. 1988, and enacts in lieu thereof five new sections for the purpose of providing additional rehabilitative activities for persons committed to the department of corrections.

This is sometimes known as the "boot camp" bill. First time felony offenders and probation violators aged 17 to 25 who have been found guilty of, or pleaded guilty to, a felony may be placed in the Missouri Regimented Discipline Program. The Department of Corrections must file a progress report with the circuit court within four months of the defendant's commitment. The court may grant probation to the defendant at any time within this four months.

CCS HCS HB 225 PORNO VIDEOS/DIAL-A-PORN

Repeals section 573.010, RSMo Supp. 1988, relating to offenses relating to pornography, and enacts in lieu thereof three new sections relating to the same subject, with penalty provisions.

This legislation prohibits marketing certain violent videos to minors and requires separate display areas for videos with sex and violence. Violations are an infraction except "pornographic to minors" statute violations, which are either a misdemeanor or felony.

The legislation would also make it a criminal offense to operate a commercial "dial-a-porn" service in Missouri. A violation is a class A misdemeanor; subsequent violations are class D felonies.

HB 293 FISH AND GAME PENALTY

Repeals section 252.040, RSMo 1986, relating to fish and game, and enacts in lieu thereof one new section relating to the same subject.

Reduces the penalty that may be imposed on persons guilty of violating rules or regulations pertaining to record-keeping by fur buyers or dealers from a misdemeanor to an infraction. Violators may be fined not less than \$10 nor more than \$100.

HB 397 LIQUOR PURCHASE/PHONY ID

Repeals section 311.320, RSMo 1986, relating to alcoholic beverages, and enacts in lieu thereof one new section relating to the same subject, with penalty provisions.

Expands the penalties relating to purchase of liquor by minors by making it a misdemeanor for any person under the age of twenty-one to use a reproduced, modified or altered driver's license or identification card to purchase liquor.

HB 408 CORRECTIONS

Repeals 126 sections, primarily in Chapter 217, and enacts in lieu thereof 114 new sections relating to the same subject.

This is a comprehensive recodification of the statutes relating to the Department of Corrections and Human Resources. There are provisions relating to the department director's powers and responsibilities, the confidentiality of records and reports kept by the department, and the powers and duties of the probation and parole board. The bill also makes numerous technical changes to update the statutes.

HB 479 PUBLIC NUISANCES

Repeals section 195.130, RSMo 1986, relating to maintaining a public nuisance, and enacts in lieu thereof one new section relating to the same subject, with penalty provisions.

Expands provisions of the law relating to buildings considered a public nuisance because of controlled substance activity to include other "inhabitable structures" and makes it a Class C felony to keep or maintain such a nuisance. Upon conviction the property is subject to forfeiture under the Criminal Activity Forfeiture Act.

Criminal Procedure

HCS HB's 277, 179, 227 INTERCEPTING COMMUNICATIONS

This bill makes it a class D felony to intercept wire communications or to use or disclose intercepted communication, with certain exceptions.

It allows a prosecuting attorney, with written authorization from the attorney general, to request by application an order allowing interception when there is probable cause to believe the interception will provide evidence of a felony involving drugs or controlled substances or of a conspiracy to commit such a felony. When notice is received by the Missouri Supreme Court that such request has been filed, the Supreme Court shall appoint a circuit court from a circuit other than the one where the application originates to make a determination on the application. In addition, the bill describes procedures and requirements for the courts in granting the order and specifies time limits and extensions for the ordered interception.

There are provisions for recording of communications, notifying parties of the interception, and for offering of interceptions into evidence. Issuing courts are to report data regarding interception orders to the state court administrator who then will report to the General Assembly.

The bill also provides a civil cause of action for aggrieved persons against one who intercepts, discloses or uses communications in violation of these provisions.

The bill expires five years after its effective date.

HCS HB 334 BAIL BONDSMEN

The legislation: (1) guarantees bondsmen access to jailed defendants; (2) provides for recovery of bond after judgment is taken; (3) limits bondsmen's liability to the appearance of the defendant; (4) requires courts to hold forfeited bonds for 180
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days; (5) authorizes judges to rebate funds from forfeited bonds; and (6) abolishes the presumption of release on recognizance for persons previously convicted of a felony or arrested while on recognizance.

VETOED

Crime Victims' Compensation Fund

HCS SB 138 CRIME VICTIMS' COMPENSATION--JUVENILES

Repeals sections 191.225 and 595.020, RSMo 1986, and section 595.045, RSMo Supp. 1988 relating to costs and fees for certain victims of crime, and enacts in lieu thereof four new sections relating to the same subject.

This bill, which relates primarily to medical exams for crime victims, contains a provision requiring that minors in juvenile court who are charged with state or municipal violations other than non-felonious municipal traffic offenses will be assessed five dollars in CVCF costs.

Juries/Jury Trials

CCS HCS SCS SB's 127,72,161,171,275, & 120 JURIES/ASSOCIATE JURISDICTION/MISCELLANEOUS

Repeals 195 sections relating to judicial procedure and enacts in lieu thereof 72 new sections relating to the same subject, with penalty provisions, and amends Supreme Court Rule 56.01 accordingly.

This bill contains numerous provisions relating to the judiciary, including a major reorganization and rewrite of the jury statutes and changes in the way parties are taxed for deposition costs. The legislation would require courts to transfer a case to the court with proper venue when it is determined that the case has been filed in the wrong division or circuit. There are also provisions relating to expert witnesses, associate circuit court jurisdiction, methods of obtaining statements, and cases certified to the Supreme Court.

The bill provides that associate circuit judges may hear the same types of cases as circuit judges. Circuit and associate circuit judges assigned to the probate division shall hear such cases in accordance with the rules of civil procedure, except where specific statutes govern probate division procedures. The bill also provides that if a circuit or associate circuit judge hears a case or class of cases not properly assigned to the judge by the presiding judge of the circuit, the judge shall be considered to

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be acting in a judicial capacity in spite of such absence or defect in assignments.

Provision is made that certain court records of associate circuit judges may be filed with and maintained by persons other than the circuit clerk. When certain types of cases are filed in counties with centralized filing systems, the petition must designate whether the case is to be heard in accordance with circuit or associate circuit procedure. If no designation is made, the case shall be heard by the associate circuit court.

HB 758 HUMAN RIGHTS COMMISSION

Repeals section 213.111, RSMo 1986, relating to certain civil actions, and enacts in lieu thereof one new section relating to the same subject.

Provides that civil actions filed against the Human Rights Commission because of failure to process a complaint within 180 days may be tried by a jury, if requested by either party.

Juvenile

HS SB 163 JUVENILE REIMBURSEMENT

Repeals sections 178.295, 178.297 and 211.156, RSMo 1986, relating to the protection of children, and enacts in lieu thereof four new sections relating to the same subject.

This bill provides that after July 1, 1990, and until June 30, 1991, the sum per child the state must pay counties for owning or operating homes for delinquent and neglected children increases from eight dollars to ten dollars. After July 1, 1991, the sum is increased to twelve dollars and beginning July 1, 1992, to fourteen dollars per day. The bill increases the sum paid to counties for detention of juveniles by the same amounts and on the same schedule.

The bill prohibits the detention of a person under the age of seventeen in an adult detention facility. The bill authorizes a traffic court judge to request a juvenile court to order a person under the age of seventeen committed to a juvenile detention center.

The bill also prohibits school districts providing educational programs for juveniles placed or detained in county facilities from exceeding maximum allowable costs determined by the State Board of Education. The districts' costs must be authenticated in a manner acceptable to the State Board of Education.

CCS SS HCS HB's 502, 503 & 130 OMNIBUS JUVENILE JUSTICE BILL

Repeals sections 178.295, 178.297, 211.029, 211.031, 211.061, 211.071, 211.091, 211.101, 211.161, 211.171, 211.211, 211.251, 211.321, 219.011, 595.020, 595.025, 595.030 and 595.070, RSMo 1986, and sections 211.081, 211.181, 211.393, 455.513 and 595.105, RSMo Supp. 1988, and enacts in lieu thereof thirty-four new sections for the purpose of restructuring the laws relating to child and family welfare, with penalty provisions.

The legislation makes numerous changes in the law regarding juveniles, including: (1) increase the age of juvenile court jurisdiction to cover 17-year-olds alleged to be neglected; (2) permit juvenile officers in metropolitan circuits to appeal decisions of juvenile commissioners for a hearing by a judge; (3) provide that juveniles incarcerated for any offense must be held in juvenile facilities; (4) provide for certain emancipated juveniles to receive services from Family Services; (5) more fully codify the juveniles' "Miranda" rights; (6) put some rights now granted in Supreme Court Rules into the statute; (7) change procedures for initial detention hearings; (8) permit victims to make statements in juvenile cases; (9) provide for restitution, including court orders of restitution against the parents of certain juvenile offenders; (10) codify the right to counsel in juvenile proceedings; (11) give juvenile officers standing to file petitions involving juvenile custody; (12) permit victims to get certain information in juvenile cases; (13) make changes in the law on crime victims' compensation; (14) establish a juvenile court specialist in this office; (15) establish a pilot treatment system for severely emotionally disturbed children to be administered by Mental Health; (16) provide for the Supreme Court to establish rules or standards for the operation of juvenile detention facilities by January 1, 1991; (17) provide that the current provisions relating to educational programs for juveniles placed in county detention facilities would apply to all counties, instead of only to St. Louis and Jackson counties; (18) provide for changes in the availability of criminal history information; (19) provide that juvenile neglect and status offense cases may not be held in secure detention for more than 24 hours unless a probable cause hearing requires it; (20) provide that a traffic court judge may request the juvenile court to order the commitment of a person under the age of 17 to a juvenile detention facility; (21) change the way juvenile court personnel are reimbursed in Cole, Jasper and Platte counties, (22) provide a change in the issuance of ex parte child protection orders, and (23) make other technical changes in the law.

Miscellaneous

SB 19 AIDS LAW TERMINATION DATE

Repeals section 191.698, RSMo Supp. 1988, relating to the department of health.

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Current law provides that the statutes governing AIDS testing, control, education, and discrimination expire on December 31, 1989. This bill repeals that expiration date.

SB 30 PROSECUTORS' RETIREMENT FUND

Repeals section 56.700, RSMo 1986, relating to prosecutors and circuit attorneys, and enacts in lieu thereof seventeen new sections relating to the same subject.

Establishes a retirement system for county prosecutors funded with federal child support incentive payments.

SB 208 CIVIL IMMUNITY FOR VOLUNTEERS

Limits the liability of "volunteers" working for not-for-profit and governmental entities if the volunteer acted in good faith and within the scope of his official functions and duties.

SB 310 PROSECUTORS' BAD CHECK CHARGE

Repeals sections 570.120 and 570.123, RSMo 1986, relating to bad checks, and enacts in lieu thereof two new sections relating to the same subject.

Permits prosecutors to collect an administrative handling charge from issuers of bad checks, except in cases filed in a court of appropriate jurisdiction. Civil recovery of damages would be limited if prosecution occurs.

Requires any person bringing a civil action as presently allowed for three times the face amount of a bad check, to give notice to any endorser as well as the maker, prior to instituting the action. Restricts the bringing of this civil action to the original holder of the check.

HS HB 82 MISSOURI RIGHT TO FINANCIAL PRIVACY LAW

Repeals section 408.655, RSMo 1986, relating to access to financial records, and enacts in lieu thereof nineteen new sections relating to the same subject, with penalty provisions.

This bill enacts the Missouri Right to Financial Privacy Act. It prohibits access of any government agency to the financial records of any customer of a financial institution unless the customer authorizes disclosure or disclosure is in response to an administrative subpoena, judicial subpoena or formal written request. In the case of subpoena or request, the customer must be given notice and has the right of appeal. Delay of notice is permitted upon judicial finding that notice will endanger life or safety, will result in flight from prosecution, and other similar findings. The bill provides for damages when customers' rights are violated. Injunctive relief is also granted.

HS HB 506 UNCLAIMED PROPERTY

Repeals sections 447.500, 447.505, 447.532, 447.539, 447.541, 447.543, 447.547, 447.562, 447.565, and 447.572, RSMo 1986, relating to unclaimed property, and enacts in lieu thereof seventeen new sections relating to the same subject.

Provides that unclaimed court-ordered cash (civil or criminal) or probation bond proceeds not claimed within one year of the date of final court action or termination of the probation period shall be transferred to the director of the Department of Economic Development.

Probate

CCS HCS SB 22 TRUST COMPANIES

Amends chapter 362, RSMo, relating to banks and trust companies, by adding thereto one new section relating to the transfer of certain fiduciary capacities between affiliated banks and trust companies.

A bank or trust company may transfer by assignment to an affiliated institution any fiduciary capacity, without notice or approval of any interested party. The transfer requires approval of the Director of the Division of Finance.

After receiving approval, the bank must publish a notice of transfer in a newspaper where the main banking house is located. After 60 days of such publication, the transfer shall be effective. The transferring bank or trust company shall file an accounting of the trust and its assets before the transfer.

Within 60 days of publication, any grantor or beneficiary which objected to the transfer when proposed may petition the circuit court for appointment to a new fiduciary. The court may appoint a new fiduciary if it finds the transfer to the affiliated entity adversely affected the best interests of the trust and its beneficiaries. If a bank or trust company fails to give notice of a transfer, it shall not affect the validity of the transfer.

SB 181 PUBLIC ADMINISTRATORS

Repeals section 473.767, RSMo Supp. 1988, relating to final settlements by public administrators, and enacts in lieu thereof one new section relating to the same subject.

Permits the probate court in first class charter counties to phase in the transition between former public administrators and successor public administrators.

CCS HCS SCS SB's 215 & 58 OMNIBUS DRUG BILL

This bill, which is summarized on page 13, contains a change in the statutes relating to probate, particularly section 631.120. It provides that qualified counselors are added to the list of those who may apply for a 96 hour detention in cases related to alcohol or drug abuse.

SS HCS HB 145 PROBATE

Repeals sections 194.115, 194.220, 404.007, 404.023, 404.027, 404.031, 404.035, 404.041, 404.051, 404.057, 404.071, 404.091, 404.410, 404.420, 404.440, 404.530, 404.540, 404.550, 404.560, 404.570, 404.590, 404.620, 404.650, 404.660, 456.080, 456.231, 456.730, 456.750, 473.033, 473.070, 473.083, 473.153, 473.155, 473.360, 473.663, 475.050, 486.550, 486.555, 486.560, 486.565, 486.570, 486.575, 486.580, 486.585, 486.590, and 486.595, RSMo 1986, relating to ownership and transfers of certain property, and enacts in lieu thereof eighty-three new sections relating to the same subject, with penalty provisions and an emergency clause for certain sections. This bill was signed on July 13, 1989.

This bill includes the following changes to the state's probate-related laws:

Section A repeals and revises various sections within Chapters 404, 456, 473, 475, and 486 dealing with the Missouri Personal Custodian Law and the Missouri Transfers to Minors Law, and it enacts the Durable Power of Attorney Law of Missouri, so that their provisions are, to the degree possible, consistent both with each other and with the recently recommended Uniform Custodial Trust Act issued by the National Conference of Commissioners on Uniform State Laws. These three sets of statutes provide the means to manage the property and affairs of individuals such as minors and the elderly who are not so disabled or incapacitated as to warrant the appointment by a court of a guardian or conservator. The probate division may hear and determine all matters pertaining to the above laws.

Also found in Section A is the Nonprobate Transfers Law of Missouri that provides rules for the administration and construction of the nonprobate beneficiary designations in such things as employee benefit and pension plans. The probate division may hear and determine all matters pertaining to nonprobate transfers. The sections of this act apply to beneficiary designations for nonprobate transfers made on or after the effective date of the act. This act applies to nonprobate transfers occurring on and after January 1, 1990.

(Continued on next page)

Also found in Section A are provisions such as those relating to durable powers of attorney for purposes of autopsies and anatomical gifts, and compensation of accountants regarding services rendered in probate matters. Section B repeals and revises various sections within Chapter 456 and 473. There is an emergency clause that makes this section in full force and effect upon its passage and approval. One of the most important provisions is designed to deal with a recent U.S. Supreme Court case which called into question Missouri's nonclaim statute, which bars the claims of creditors a specified period of time after the publication of notice of the commencement of probate proceedings. The bill deals with this situation by establishing a "self-execution" statute of limitations. Another provision of this bill is the reduction time in which a will must be admitted to probate to one year from date of death of decedent. Other provisions in this portion of the bill deal with such topics as when a spendthrift trust can defeat the claims of creditors, distribution requirement of QTIP trusts, whether corporate distributions are deemed income or principal by a trustee and voluntary dismissals of will contests.

Retirement

SS HB 610 PUBLIC EMPLOYEE RETIREMENT AND HEALTH CARE

Repeals sections 104.516 and 476.537, RSMo 1986, and sections 104.340, 104.342, 104.515, 169.055, 169.070 and 169.590, RSMo Supp. 1988, relating to certain retirement systems, and enacts in lieu thereof ten new sections relating to the same subject, with an emergency clause. This bill was signed on June 14, 1989.

This bill, which relates primarily to certain teacher retirement systems, contains several provisions pertaining to judicial and other state employees. In particular, the bill provides that the state's contribution for employee health care is increased to \$120 per month, and vested state employees are permitted to continue health care coverage after leaving office or employment.

Surviving dependent children of judges are made eligible for benefits regardless of whether there is a surviving spouse.

CCS #2 SS HCS HB 674 CIRCUIT CLERKS RETIREMENT (see Circuit Clerks heading)

Addendum

FIRST SPECIAL SESSION
JULY 5, 1989

SS HB 2 FAMILY SUPPORT ACT/CHILD SUPPORT

Repeals sections 208.151 and 452.340, RSMo 1988, relating to the department of social services, and enacts in lieu thereof ten new sections relating to the same subject, with an emergency clause.

As it relates to the judiciary, this legislation mandates the use of child support guidelines, to be established by the Missouri Supreme Court beginning on October 13, 1989; if the Supreme Court does not establish guidelines, then each judicial circuit shall establish guidelines by local court rule.

The bill also clarifies language relating to the provisions regarding continuation of support payments while the child attends vocational or higher educational institutions.

It creates a rebuttable presumption, after October 13, 1989, that the amount of the award which would result from the application of the guidelines is the correct amount of child support to be awarded.

HB 3 MOTOR VEHICLE OPERATORS' LICENSES

This bill is primarily a revision of the statutes as they relate to the issuance of commercial vehicle operator's licenses.

Section 2 contains a provision for the "expungement" of alcohol-related traffic violations for other than commercial vehicle operators after a period of ten years if there are no other similar violations during that period. The individual wanting to have his/her record expunged must petition the court for such action.

This particular section becomes effective July 1, 1990.